

JUDGE BRICCETTI

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

14 CV 2019

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SHEILA HAMMOND

Plaintiff,

COMPLAINT

v.

ARS NATIONAL SERVICES, INC.

Defendant.  
-----X

**INTRODUCTION**

FILED COURT  
U.S. DISTRICT COURT  
2014 MAR 21 PM 4:08  
S.D. OF N.Y.

1. Plaintiff brings this action to secure redress from unlawful credit and collection practices engaged in by defendant ARS National Services, Inc. ("ARS"). Plaintiff alleges violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. ("FDCPA").

2. The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements in connection with the collection of a debt. 15 U.S.C. §§1692d, 1692e and 1692f.

**JURISDICTION AND VENUE**

3. This Court has jurisdiction under 15 U.S.C. §1692k (FDCPA).

4. Venue and personal jurisdiction in this District are proper under 28 U.S.C. §1391 because the events giving rise to this lawsuit occurred in this district.

5. Plaintiff, Sheila Hammond, is an individual who resides in New York.

6. Defendant, ARS, is a foreign business corporation chartered under California law with an address of 201 West Grand Ave in Escondido, California 92025.

7. ARS collects debts that are in default.

8. ARS collects debts for others.
9. ARS is a “debt collector” as defined in the FDCPA.

### **FACTS**

10. ARS was attempting to collect a debt allegedly owed to “Chase Bank USA, NA”. That account had an ARS account number ending in 40505. ARS made numerous collection phone calls and sent numerous collection letters. The letters were dated December 7<sup>th</sup>, 2013, December 24<sup>th</sup>, 2013, January 22<sup>nd</sup>, 2014, February 13<sup>th</sup>, 2014 and March 4<sup>th</sup>, 2014.

11. These debt collection attempts are “communications” as defined by the FDCPA.

12. The debt ARS sought to collect was a debt incurred for personal, family or household purposes and not for business purposes.

13. The debt ARS sought to collect is a “debt” as defined by the FDCPA.

14. Plaintiff’s attorney, Shimshon Wexler, sent a fax to ARS at 866-422-0765 indicating that he represented Plaintiff on February 4<sup>th</sup>, 2014. See Exhibit A.

15. The number 866-422-0765 is prominently displayed on ARS collection letters as the fax number for ARS.

16. Despite receiving the fax, ARS continued making debt collection calls and sent debt collection letters dated February 13<sup>th</sup>, 2014 and March 4<sup>th</sup>, 2014. See Exhibit B.

### **VIOLATIONS ALLEGED**

17. ARS’s conduct violates 15 U.S.C. §§1692 and 1692c.
18. Section 1692c provides:

#### **COMMUNICATION IN CONNECTION WITH DEBT COLLECTION**

**(a) Communication with the consumer generally**

*Without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt—*

- (1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary, a debt collector shall assume that the convenient time for communicating with a consumer is after 8 o'clock antemeridian and before 9 o'clock postmeridian, local time at the consumer's location;*
- (2) if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the consumer; or*
- (3) at the consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communication.*

**(Emphasis Supplied)**

19. ARS violated the above provision of the FDCPA because ARS communicated with Plaintiff after ARS knew or should have known that Plaintiff was represented by an attorney.

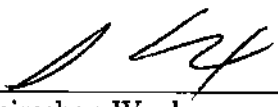
20. ARS is liable to plaintiff for damages as directed by the FDCPA (§1692k).

**WHEREFORE**, the Court should enter judgment in favor of plaintiff and against the defendant for:

- (1) Statutory damages;
- (2) Attorney's fees, litigation expenses and costs of suit;
- (3) Such other and further relief as the Court deems proper.

Dated: March 18<sup>th</sup>, 2014

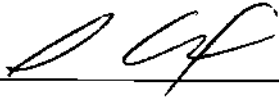
**The Law Offices of Shimshon Wexler, PC**

By:   
Shimshon Wexler  
Attorney for Plaintiff

216 W. 104<sup>th</sup> St., #129  
New York, New York 10025  
Tel: (212)760-2400  
Fax: (917)512-6132  
swexleresq@gmail.com

**NOTICE OF ASSIGNMENT**

Please be advised that all rights and privileges relating to attorney's fees have been assigned to counsel.

A handwritten signature in black ink, appearing to read 'S Wexler', is written over a horizontal line.

Shimshon Wexler

The Law Offices of Shimshon Wexler, PC  
216 West 104<sup>th</sup> St., #129  
New York, NY 10025  
212-760-2400  
917-512-6132 (fax)  
[shimshonwexler@yahoo.com](mailto:shimshonwexler@yahoo.com)

February 4th, 2014

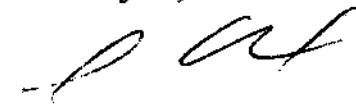
Via Fax

ARS National Services, Inc.  
PO Box 463023  
Escondido, CA 92046  
Fax: 866-422-0765

Dear ARS National:

My office represents Sheila Hammond of 786 Bronx River Rd in Bronxville, NY 10708 regarding the Chase Bank USA, NA account ending in 1119, ARS Account No. 28140505.

Thank you,



Shimshon Wexler

"Exhibit A"



February 13, 2014

New York City License: 1020790



15080 - 874

SHEILA HAMMOND  
786 BRONX RIVER RD  
BRONXVILLE NY 10708-7952

**ACCOUNT IDENTIFICATION**

Re: Chase Bank U.S.A., N.A.

Account: \*\*\*\*\*1119

ARS Acct No: 28140505

Balance: \$3268.87

Dear Sir/Madam

To resolve your delinquent account, please choose one of the following options:

1. **SETTLE YOUR ACCOUNT AT 45% OF THE ABOVE BALANCE IN ONE PAYMENT:**  
Payment Due: \$1470.99 due on or before 03-05-2014.
2. **SETTLE YOUR ACCOUNT AT 50% OF THE ABOVE BALANCE IN TWO INSTALLMENTS:**  
Payment One: \$817.22 due on or before 03-05-2014.  
Payment Two: \$817.22 due on or before 04-04-2014.
3. **SETTLE YOUR ACCOUNT AT 55% OF THE ABOVE BALANCE IN THREE INSTALLMENTS:**  
Payment One: \$599.29 due on or before 03-05-2014.  
Payment Two: \$599.29 due on or before 04-04-2014.  
Payment Three: \$599.30 due on or before 05-04-2014.

Contact your account representative at (866) 888-9096 for details. Office hours are Monday through Friday, 6:30 a.m. - 8:00 p.m (Pacific Time). After receipt of your final payment, Chase Bank U.S.A., N.A. will notify a national credit bureau bureau (Experian, Equifax and/or TransUnion) that you have resolved your account. Chase Bank USA, NA is required by the IRS to provide information about certain amounts that are discharged as a result of a cancellation of a debt on a form 1099C. If Chase Bank USA, NA is required to notify the IRS, you will receive a copy of the form 1099C that is filed with the IRS.

Sincerely,

JOVON WILLIAMS X3119  
Account Representative

"Exhibit B"

**THIS COMMUNICATION IS FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**

